

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ROBERT LUMPKIN, JR. DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Plaintiff,)
)
v.)
BIG LOTS STORES, INC.) CIVIL ACTION NO.:
)
Defendant.) 2:18-cv-947-SRW
)
) JURY DEMAND

COMPLAINT

I. INTRODUCTION

This is a suit authorized and instituted pursuant to the "Civil Rights Act of 1866," 42 U.S.C. § 1981. The jurisdiction of this Court is invoked to secure protection of and redress deprivation of rights secured 42 U.S.C. § 1981 providing for injunctive and other relief against race discrimination and retaliation.

II. JURISDICTION AND VENUE

1. Jurisdiction is invoked pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4).

2. A substantial part of the unlawful employment practices challenged in this action occurred in the Middle District of Alabama. Venue is proper pursuant to 28 U.S.C. § 1391(b).

III. ADMINISTRATIVE PREREQUISITES

3. Plaintiff's claims arising under 42 U.S.C. § 1981 do not require administrative exhaustion and are subject to 28 U.S.C. § 1658's four year statute of limitations.

IV. PARTIES

4. Plaintiff, Robert Lumpkin, Jr., (hereinafter "Lumpkin" or "Plaintiff"), is an African-American male citizen of the United States over the age of nineteen (19) years and has been at all times pertinent to the matters alleged herein a resident of the State of Alabama.

5. Defendant, Big Store Lots, Inc. (hereinafter "Big Lots" or "Defendant"), is an entity subject to suit under 42 U.S.C. §1981. The Defendant does business in Montgomery County, Alabama.

V. STATEMENT OF FACTS

6. The Plaintiff realleges and incorporates by reference paragraphs 1-5 above with the same force and effect as if fully set out in specific detail hereinbelow.

7. The Plaintiff, Robert Lumpkin, Jr., is an African-American who was hired by the Defendant in May of 2014. Mr. Lumpkin generally performed his job at a satisfactory level.

8. On July 3, 2016, Mr. Lumpkin was terminated for performance and abuse of authority in that it was alleged that he terminated individuals in violation of company policy. These allegations were not true or were taken out of context. For example, the performance of white managers was also down and they were not terminated.

9. Also, white managers have numerous employees without consulting human resources and were not terminated.

10. Upon information and belief, Mr. Lumpkin was terminated because of his race.

11. The white supervisor who terminated Mr. Lumpkin made negative comments about his hair which he wore in a natural uncombed African inspired style.

VI. CAUSES OF ACTION

COUNT I

RACE DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 1981

12. Plaintiff realleges paragraphs 1 through 11 above and incorporates them by reference as if fully set forth herein.

13. Plaintiff has been discriminated against and treated differently than

similarly situated Caucasian employees because of his race, African-American, in violation of 42 U.S.C. § 1981. This treatment by the Defendant has affected the terms and conditions of Plaintiff's employment.

14. This reckless and willful discrimination on the part of the Defendant constitutes a violation of the plaintiffs' statutory rights pursuant to 42 U.S.C. § 1981.

15. As a further consequence and effect of the Defendant's unlawful conduct and practices, the Plaintiff was deprived of income and other compensation and benefits.

16. Plaintiff has suffered embarrassment, humiliation, mental distress and emotional pain and anguish as a consequence of the Defendant's racially discriminatory, demeaning and unlawful conduct.

17. Plaintiff has no plain, adequate, or complete remedy at law to redress the wrongs alleged herein and this suit, and an action for injunctive, declaratory, and other relief, including punitive and compensatory damages, is his only means of securing adequate relief.

18. As a result of the Defendant's actions, the Plaintiff has suffered and continues to suffer severe emotional distress, mental anguish, embarrassment, humiliation, inconvenience, and loss of enjoyment of life.

19. This reckless, malicious, and willful discrimination on the part of the

Defendant constitutes a violation of the Plaintiff's statutory rights pursuant to 42 U.S.C. 1981.

VII. PRAAYER FOR RELIEF:

WHEREFORE, the Plaintiff respectfully prays that this Court assume jurisdiction of this action and after trial:

1. Issue a declaratory judgment that the employment policies, practices, procedures, conditions and customs of the Defendant are violative of the rights of the Plaintiff as secured by 42 U.S.C. § 1981 and 42 U.S.C § 1981a;
2. As a result of the Defendant's actions, the Plaintiff has suffered and is continuing to suffer injury including emotional pain, suffering, humiliation, inconvenience, mental anguish, loss of enjoyment of life, and other non pecuniary losses;
3. The Plaintiff seeks to redress the wrongs alleged herein, and this suit for equitable, compensatory, punitive and/or nominal damages, and injunctive and declaratory relief is his only means of securing adequate relief;
4. Grant Plaintiff a permanent injunction enjoining the Defendant, their agents, successors, employees, attorneys and those acting in concert with them and at their request from continuing to violate 42 U.S.C. § 1981;

5. Enter an Order requiring the Defendant to make the Plaintiff whole by reinstating him to the position he would have continued to occupy in the absence of discrimination; and,

6. The Plaintiff further prays for such other relief and benefits as the cause of justice may require, including, but not limited to, back pay, front pay compensatory, nominal, and punitive damages an award of costs, pre-judgment interest and attorneys' fees and expenses.

**PLAINTIFF HEREBY DEMANDS A
JURY FOR ALL ISSUES TRIABLE BY JURY**

Respectfully submitted,



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